

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

CARLOS GOTAY-GUZMAN,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Civil No. 16-2662 (ADC)
[Related Criminal Case No. 15-162-1 (ADC)]

OPINION AND ORDER

Carlos Gotay-Guzmán filed a § 2255 petition challenging his sentence premised on an ineffective assistance of counsel claim. **ECF No. 1.** The matter was referred to a Magistrate Judge for consideration and submission of a Report and Recommendation (“R & R”).

After an evidentiary hearing (**ECF No. 30**) the Magistrate Judge issued a R & R on December 13, 2018, recommending denial of petitioner’s claim. **ECF No. 31.** Timely objections were filed by counsel (**ECF No. 40**) which were subsequently supplemented. **ECF No. 41.**

The undersigned has reviewed the record and finds that while the Magistrate Judge made accurate final factual determinations, it appears the legal determinations warrant further review and modifications in view of the Supreme Court decision in *Garza v. Idaho*, 139 S. Ct. 73, issued on February 27, 2019, after the rendering of the Magistrate Judge’s Report and Recommendation.

Accordingly, the R & R is adopted in part and denied in part. A final Opinion and Order will follow¹.

At San Juan, Puerto Rico, on this 30th day of September, 2019.

S/AIDA M. DELGADO-COLÓN
United States District Judge

¹ Once issued, petitioner will most likely be re-sentenced and his appeal rights restored.